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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,301	05/29/2001	Robert H. Scheer	31083.05US4	6151

34018 7590 03/30/2004

GREENBERG TRAURIG, LLP  
77 WEST WACKER DRIVE  
SUITE 2500  
CHICAGO, IL 60601-1732

EXAMINER

JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/867,301

Applicant(s)

SCHEER, ROBERT H.

Examiner

Lynda Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 09/867,068. Although the conflicting claims are not identical, they are not patentably distinct from each other because the same end result of staging

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items within a supply chain to meet expected use of the items and determining fulfillment plan for the items are achieved.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang et al. (5,953,707).

Huang et al. discloses a method for fulfilling an order in a supply chain (via decision support system (10) and vendor managed replenishment) with the steps of: receiving an advance demand notice (via demand management 81) representative of the order that includes a specification of one or more items of interest to the customer (col. 12, lines 51-65), and using a network of intelligent agents (via decision makers) to stage and manage the items specified in the advance demand notice within the supply chain as a function of a probability of need for each item (via determining 37-42).

Huang et al. further discloses extracting information from a customer maintenance system (via evaluation of raw requirements and estimation of the consolidated requirements) to create the advance demand notice (col. 23, lines 1-46),

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and using an equipment knowledge base (via using a requirements management process 98) to determine the probability of need for each item (via estimating future requirements).

Huang et al. further discloses the steps of ordering product from a supplier to initiate the staging of items within the supply chain (via ordering from the sources of supply by the repair shops; col. 14, lines 32-36), ordering product from a supplier to replenish the items staged within the supply chain (col. 16, lines 44-59), using a customer defined level of service to stage and manage the items specified in the advance demand notice (analyzed via the requirement management process using a lower level and upper level requirements analysis), using the current and developing states of inventory within the supply chain to stage and manage the items specified in the advance demand notice within the supply chain(via the PSI planning frame 160 or via ensuring balance between requirements and supply), taking into account a desired level of safety stock (targeted stock level) when staging and managing the items specified in the advance demand notice within the supply chain (col. 28, lines 30-36), using sourcing options specified by a customer to provide alternatives to the items specified in the advance demand notice (via the demand characterization; col. 19, lines 63-65). Further, advance demand notice includes a probability of need for each item (col. 19, lines 27-30).

5. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Fox (6,061,691)

Fox discloses a method for fulfilling orders in a supply chain (such as media advertisement environment) with the steps of receiving a first customer order specifying planned purchase items (via media advertising time) having a probability of need of 100 percent (via firm order confirmation 18), receiving a second customer order specifying planned purchase items having an uncertain probability of need (via reservation 16, tentative order), determining the probability of need for the items in the second customer order (via using demand curve approach; col. 12, lines 40-46), and using the determined probability of need to move items within the supply chain to simultaneously fulfill the first customer order and the second customer order (col. 12, lines 55-62).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (5,953,707).

As per claims 3 and 4, Huang et al. discloses that the time to failure of an equipment can be a function of the number of hours it has operated and its maintenance schedule, and determining the relationships between failure rates and activities to establish future failure rates, which can be estimated, based on the planned activity schedules of the equipment. Thus, one of ordinary skill in the art at the time the

invention was made would have created the forecast order in response to a change in the maintenance schedule since such is used to determine repair estimates.

8. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (5,953,707), in view of Drolet al. (2002/0147622 A1).

Huang et al. discloses the elements of the claimed invention, but fails to explicitly disclose coordinating with a carrier to move the items and monitoring the movement of the items within the supply chain.

Drolet et al. discloses the concept of having purchase order detail menu for shipment data such as identifier, required quantity, tracking identification (ID) number and carrier.

From this teaching of Drolet et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the decision system of Huang et al. to include the fulfillment plan taught by Drolet in order to track item's movement in an enterprise.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ward et al. discloses a system and method for integrating business transaction with a process control system and having a manufacturing system that receives work order from business transaction processing system.

Abelow discloses a method and system for product design module.

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Daniel et al. discloses a method and system for guiding personnel servicing equipment requiring repair.

Joao discloses a method and system for processing vehicle information and vehicle maintenance information.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lynda Jasmin  
Primary Examiner  
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